

CHAPTER 3.08

Public Accommodations Tax

3.08.010 Legislative intent.

The legislative intent of the City Council in enacting the ordinance codified in this Chapter is that every person who, for consideration, leases or rents any hotel room, motel room or other accommodation located in the City, shall pay, and every person who furnishes, for lease or rental any such accommodation shall collect the tax imposed by this Chapter. (Ord. 551 82, 1982; prior code 3.10.010)

3.08.020 Definitions.

As used in this Chapter:

Person means an individual, partnership, society, club, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any other group or combination of individuals acting as a unit, including the United States of America, the State of Colorado, and any political subdivision thereof; and the plural as well as the singular.

Rental or leasing of hotel or motel rooms or other accommodations means the transaction of furnishing rooms or accommodations by any person to any other person who, for a consideration, uses, possesses or has the right to use or possess any room or rooms in a hotel, motel, apartment hotel, lodging house, guesthouse, guest ranch, mobile home, auto camp, trailer court or other accommodation. (Ord. 551 82, 1982; prior code 3.10.020)

3.08.030 Imposition and rate of tax.

On and after January 1, 1983, there is levied and shall be paid and collected an excise tax of three percent (3%) on the price paid for the leasing or rental of any hotel room, motel room or other accommodation located in the City. (Ord. 551 82, 1982; prior code 3.10.030)

3.08.040 Exempt transactions.

The following entities and transactions are exempt from the duty to pay tax under this Chapter, but not the duty to collect and remit the tax levied hereby.

A. The leasing or rental of hotel rooms, motel rooms, or other accommodations to any occupant who is a permanent resident or who has entered into an agreement for occupancy of a room or rooms or accommodations for a period of at least thirty (30) consecutive days; and

B. The United States Government, the State, its departments and institutions, and the political subdivisions thereof, including the City, when acting in their governmental capacities and performing governmental functions and activities; and

C. Religious, charitable and quasi-governmental organizations, but only in the conduct of their regular religious, charitable and quasi-governmental capacities, and only if such organizations are exempt under state law from the payment of real property taxes or state sales tax. (Ord. 551 82, 1982; prior code 3.10.060)

3.08.050 Liability for payment of tax.

A. It is unlawful for any lessee or renter of a hotel room, motel room or other accommodation located in the City to fail to pay, or for any lessor or renter of such accommodation to fail to collect the tax levied by this Chapter.

B. The burden of proving that any transaction is not subject to the tax imposed by this Chapter shall be upon the person upon whom the duty to collect the tax is imposed. (Ord. 551 82, 1982; prior code 3.10.040)

3.08.060 Collected moneys held in trust.

All sums of money paid by a person who leases or rents any hotel room, motel room or other accommodation, as the public accommodations tax imposed by this Chapter, are public moneys that are the property of the City. The person required to collect and remit the public accommodations tax shall hold such moneys in trust for the sole use and benefit of the City until paying them to the City. The accommodation tax must be shown in a separate liability account in the books and records of the lessor. (Ord. 720 89, 1989; Ord. 551 82, 1982; prior code □3.10.050)

3.08.070 Licensing and reporting procedure.

A. Every person with a duty to collect the tax imposed in this Chapter shall obtain a license to collect the tax, and shall report such taxes collected, on forms prescribed by the City Clerk, and remit the taxes to the City on or before the twentieth day of the month for the preceding month.

B. The City Clerk shall issue a public accommodations tax license to persons who pay five dollars and fifty cents (\$5.50) and complete an application therefor stating the name and address of the person and the business, and such other information as the City Clerk may require. The license shall be numbered, show the name, residence, place and character of the business of the licensee, and be conspicuously posted in the place of business for which it is issued. No public accommodations tax license is transferable. The license shall be in force and effect until the thirty-first day of December of the year of issued, unless sooner revoked.

C. It is the duty of each such licensee, on or before January 1st of each year during which the licensee remains in the business of providing public accommodations, to obtain a renewal of the license, after paying the license renewal fee. Such fee is established by City Council by resolution.

D. Whenever a business entity that is required to be licensed under this Chapter is sold, purchased or transferred, so that the ownership interest of the purchaser or seller changes in any respect, the purchaser shall obtain a new public accommodations tax license.

E. The license may be revoked by the City Clerk, with the approval of the City Manager, for failure to collect or pay over the tax, as required by this Chapter, or for any other violation of this Chapter.

1. No revocation shall be effective until thirty (30) days after the City Clerk has given notice of such revocation.

2. The licensee, within ten (10) days after receipt of such notice, may request in writing a hearing before the City Council, and the suspension shall not be effective until the hearing is held

and the decision of the City Council made. (Ord. 1124-98, 1998; Ord. 551 82, 1982; prior code 3.10.070)

3.08.080 Returns, reports and records maintenance and preservation.

A. The City Clerk may require any person to make such return, render such statement, or keep and furnish such records as the City Clerk may deem sufficient and reasonable, to demonstrate whether or not the person is liable under this Chapter for payment or collection of the tax imposed herein.

B. Any person required to make a return or file a report under this Chapter shall preserve those reports for a period of not less than three (3) years. (Ord. 551 82, 1982: prior code 3.10.080)

3.08.090 Interest on unpaid taxes.

In addition to any other penalties imposed herein for violation of this Chapter, a person shall be liable in an amount equal to one percent (1%) per month for all moneys which should have been paid to the City from the date the moneys should have been paid until paid, whether or not the sums were collected. (Ord. 551 82, 1982: prior code 3.10.090)

3.08.100 Refunds.

Overpayments and refunds shall include interest at one percent (1%) per month, from the date application for such overpayment or refund is received by the City. (Ord. 551 82, 1982: prior code 3.10.100)

3.08.110 Hearings and appeals.

A. After receiving a notice of license suspension or notice of assessment and demand for payment, a taxpayer may request a hearing before the City Council.

B. Such request must be in writing and be received by the City within ten (10) days after the notice is mailed.

C. Upon receipt of a request for a hearing, the City Council shall set a hearing date and hold a hearing. The City Council may affirm, reject, or modify the City Clerk's determination.

D. An aggrieved taxpayer may appeal the City Council's determination to the District Court of Weld County pursuant to Rule 106, Colorado Rules of Civil Procedure. (Ord. 551 82, 1982: prior code 3.10.110)

3.08.120 Enforcement – collection by action at law when.

A. The public accommodations tax imposed by this Chapter is a first and prior lien on tangible personal property in which the person responsible to collect and remit the tax has an ownership interest, subject only to other taxes that may have a prior lien right pursuant to state or federal law.

B. The tax liability may be collected in an action at law.

C. Failure to pay such tax within a period of thirty (30) days shall cause such tax to be certified by the City Clerk to the county City Treasurer, to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of

collection, as provided by the laws of the State. (Ord. 730 89, 1989; Ord. 720 89, 1989; Ord. 551 82, 1982; prior code 3.10.120)

3.08.130 Violation – penalty.

Any person who violates any of the provisions of this Chapter is guilty of a violation of this Chapter and shall be punished as provided in Section 1.16.010 of this Code. (Ord. 842-92, 1992; Ord. 551 82, 1982)